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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Barnes & Thornburg  
11 South Meridian Street  
Indianapolis, IN 46204

EXAMINER


HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/806,794	BASS, LARRY D.	
	Examiner	Art Unit	
	John W Hayes	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 86-138 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 86-138 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |



## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 January 2005 has been entered.

### ***Status of Claims***

2. Claims 47-85 have been canceled and new claims 86-138 added in the amendment filed 24 January 2005. Thus, claims 86-138 remain pending and are presented for examination.

### ***Response to Arguments***

3. Applicant's arguments filed 24 January 2005 have been fully considered but are not persuasive.

4. Applicant argues that the package identification number disclosed by Jones is not "predetermined vehicle identification data associated with the vehicle". Applicant further argues that the package identification number disclosed by Jones is simply the destination address of the package. Examiner agrees that the package identification number disclosed by Jones is not vehicle identification data, however, the package identification number disclosed by Jones is used to identify and locate a package that is being requested for delivery by a user (0120). Examiner submits that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use the package identification number to locate/identify any type of package that is being delivered, whether it be a vehicle or any other type of package.

5. Applicant further argues that the "predetermined vehicle identification data" exists apart from the claimed invention and is not generated as a step thereof. Applicant asserts that this differs from typical systems used by common package delivery companies such as UPS in that the "package identification numbers" used by such companies are not "predetermined" nor are they received by the delivery company. Examiner agrees somewhat that "package identification numbers" used by delivery companies

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are not "predetermined", however, examiner submits that this information is merely descriptive material and is only used to identify the package or vehicle being delivered. The "package identification number" disclosed by Jones is entered by the user requesting delivery and serves the same purpose, which is to identify the package being delivered (0120). Accordingly, examiner submits that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use any type of descriptive data or information to identify the package being picked up and delivered; whether it is predetermined or generated.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 86-102 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. A claim limited to a machine or manufacture which has practical application in the technological arts is statutory. In most cases, a claim to a specific machine or manufacture will have practical application in the technological arts. See MPEP 2106, 2100-14 (quoting *In re Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557). Additionally, for subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. See *In re Alappat* 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond V. Diehr*, 450 U.S. at 192, 209 USPQ at 10). For a process claim to pass muster, the recited process must

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somehow apply, involve, use, or advance the technological arts. See *In re Musgrave*, 431 F.2d 882, 167 USPQ 280 (CCPA 1970).

In the present case, claim 86 only recites an abstract idea. The recited steps of merely receiving predetermined vehicle identification data, origination data and destination data, locating the vehicle, identifying the vehicle, moving the vehicle and verifying the identification of the vehicle do not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to receive information about a vehicle and moving it to another location.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. An invention, which is eligible or patenting under 35 U.S.C. 101, is in the “useful arts” when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The fundamental test for patent eligibility is thus to determine whether the claimed invention produces a “use, concrete and tangible result”. See *AT&T v. Excel Communications Inc.*, 172 F.3d at 1358, 50 USPQ2d at 1452 and *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d at 1373, 47 USPQ2d at 1601 (Fed. Cir. 1998). The test for practical application as applied by the examiner involves the determination of the following factors”

(a) “Useful” – The Supreme Court in *Diamond v. Diehr* requires that the examiner look at the claimed invention as a whole and compare any asserted utility with the claimed invention to determine whether the asserted utility is accomplished. Applying utility case law the examiner will note that:

- i. the utility need not be expressly recited in the claims, rather it may be inferred.
- ii. if the utility is not asserted in the written description, then it must be well established.

(b) “Tangible” – Applying *In re Warmerdam*, 33 F.3d 1354, 31 USPQ2d 1754 (Fed. Cir. 1994), the examiner will determine whether there is simply a mathematical construct claimed, such as a disembodied data structure and method of making it. If so, the claim involves no more than a manipulation of an abstract idea and therefore, is nonstatutory under 35 U.S.C. 101. In *Warmerdam* the abstract idea of a data structure became capable of producing a useful result when it was fixed in a tangible medium, which enabled its functionality to be realized.

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(c) "Concrete" – Another consideration is whether the invention produces a "concrete" result.

Usually, this question arises when a result cannot be assured. An appropriate rejection under 35 U.S.C. 101 should be accompanied by a lack of enablement rejection, because the invention cannot operate as intended without undue experimentation.

In the present case, the claimed invention receives identifying information about a vehicle (i.e., repeatable) used in locating and identifying the vehicle and moving the vehicle to another location (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 86-102 are deemed to be directed to non-statutory subject matter.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 86-95, 98-102, 114-119, 122-131 and 134-138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al, U.S. Patent No. 5,636,122 in view of Jones, U.S. Patent Application Publication No. US 2003/0233190 A1.

As per Claims 86-89, 92 and 101, Shah et al disclose a method for delivering a package from a first location to a second location, the method comprising:

- receiving origination data identifying the first location (Figure 10; Col. 13 line 55-Col. 14 line 15) and destination data identifying the second location (Figure 10; Col. 13 line 55-Col. 14 line 15);
- locating the package based on the origination data such as the address (Figure 10; Col. 13 line 55-Col. 14 line 15; Col. 18, lines 29-35; Col. 19, lines 17-25 and 32-41);
- moving the package from the first location to the second location (Figure 10; Col. 13 line 55-Col. 14 line 15; Col. 18, lines 29-35; Col. 19, lines 17-25 and 32-41).

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Shah et al fail to disclose predetermined vehicle identification data for identifying which vehicle is to be picked up and delivered and verifying the identification of the vehicle at the second location. Jones discloses a dispatch and delivery management system and teach wherein a user may enter an order for a package to be delivered and wherein the order includes package identification numbers to identify which package is to be picked up and delivered (0095; 0110; 0120). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include package identification numbers in the package delivery order to ensure that the correct package is picked up and inspected/verified at the delivery location by the delivery service. Verifying that the correct package is being delivered is a typical step carried out by delivery personnel in order to ensure the correct package is being delivered to the correct recipient.

Shah et al and Jones disclose the pickup and delivery of packages and Jones discloses using package identification numbers to identify the package, however, Shah et al and Jones fail to explicitly disclose that the identification data is predetermined and that the package being delivered is a vehicle. However, the various types or elements of data that can be used to identify a package or vehicle such as predetermined identification data is directed to non-functional descriptive material and is not functionally involved in the steps recited. Various types or forms of data used for package or vehicle identification would be used the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004). Also see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to use any type or form of data to identify the package or vehicle because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per Claims 90-91, Shah et al and Jones fail to explicitly disclose wherein the moving step includes driving or towing the vehicle from the first location to the second location. Shah et al and Jones

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teach a method for delivering packages instead of vehicles, however, examiner takes Official Notice that when the package being delivered is a vehicle, it is generally well known that the vehicle must be either driven or towed in some fashion in order to move the vehicle from one location to another.

As per Claims 93-94, Shah et al fail to explicitly disclose generating a bar code label based on the predetermined vehicle identification data and applying the bar code label to the vehicle and scanning the bar code. Jones discloses using bar codes affixed to the package and scanning the bar code (0119, 0120). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include affixing bar code labels to the packages being delivered as taught by Jones so that the packages can be easily identified and handled.

As per Claim 95, Shah et al further disclose generating a time stamp for indicating when a transaction is ordered by a customer and data regarding the order is received (Figure 10; Col. 14, lines 50-55; Col. 16, lines 33-36).

As per Claim 98, Shah et al further disclose wherein the information on the status of the vehicle includes the assignment of a driver for the vehicle (Figure 5; Col. 10, lines 50-52; Col. 15, lines 14-30).

As per Claim 99, Shah et al further disclose storing the time when the driver was sent to pick up the vehicle at the first location (Figure 11; Col. 15, lines 14-35; Col. 16, lines 33-36).

As per Claim 100, Shah et al further disclose wherein the terminal includes a terminal for generating and transmitting order confirmation (Col. 13, lines 10-45).

As per Claim 102, Shah et al further disclose wherein the inspecting step includes recording information on the time when the vehicle was delivered at the second location (Figure 11).

As per Claims 114, 116-117, 126 and 128-129, Shah et al disclose a system and method for delivering a plurality of package from a first location to a second location comprising:



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- a monitor (Figures 10-11);
- a processor electrically coupled to the monitor (Figures 6 and 8);
- a memory device electrically coupled to the processor, the memory device having stored therein a plurality of instructions which, when executed by the processor, cause the processor to (Figures 6-8);
- displaying status information associated with a plurality of packages to be delivered on the host computer (Figures 10-11, Col. 15, lines 4-10; Col. 17, lines 12-27);
- receiving origination data identifying the first location where the package is to be picked up (Figure 10; Col. 13 line 55-Col. 14 line 15) and destination data identifying the second location where the package is to be delivered (Figure 10; Col. 13 line 55-Col. 14 line 15);
- updating the status information (Figures 10-11, Col. 15, lines 4-10; Col. 17, lines 12-27).

Shah et al fail to disclose predetermined vehicle identification data for identifying which vehicle is to be picked up and delivered and verifying the identification of the vehicle at the second location. Jones discloses a dispatch and delivery management system and teaches wherein a user may enter an order for a package to be delivered and wherein the order includes package identification numbers to identify which package is to be picked up and delivered (0095; 0110; 0120). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include package identification numbers in the package delivery order to ensure that the correct package is picked up and inspected/verified at the delivery location by the delivery service. Verifying that the correct package is being delivered is a typical step carried out by delivery personnel in order to ensure the correct package is being delivered to the correct recipient.

Shah et al and Jones disclose the pickup and delivery of packages and Jones discloses using package identification numbers to identify the package, however, Shah et al and Jones fail to explicitly disclose that the identification data is predetermined and that the package being delivered is a vehicle. However, the various types or elements of data that can be used to identify a package or vehicle such as predetermined identification data is directed to non-functional descriptive material and is not functionally involved in the steps recited. Various types or forms of data used for package or vehicle identification would be used the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of

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the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004). Also see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to use any type or form of data to identify the package or vehicle because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per Claims 115 and 127, Shah et al further disclose wherein the displaying step includes displaying information indicative of whether any one of the number of packages has been delivered (Figure 11; Col. 15, lines 4-10; Col. 17, lines 12-27).

As per Claims 118 and 130, Shah et al fail to explicitly disclose generating a bar code label based on the predetermined vehicle identification data and applying the bar code label to the vehicle and scanning the bar code. Jones discloses using bar codes affixed to the package and scanning the bar code (0119, 0120). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include affixing bar code labels to the packages being delivered as taught by Jones so that the packages can be easily identified and handled.

As per Claims 119 and 131, Shah et al further disclose generating a time stamp for indicating when a transaction is ordered by a customer and data regarding the order is received (Figure 10; Col. 14, lines 50-55; Col. 16, lines 33-36).

As per Claims 122 and 134, Shah et al further disclose wherein the information on the status of the vehicle includes the assignment of a driver for the vehicle (Figure 5; Col. 10, lines 50-52; Col. 15, lines 14-30).

As per Claims 123 and 135, Shah et al further disclose wherein the terminal includes a terminal for generating and transmitting order confirmation (Col. 13, lines 10-45).

As per Claims 124 and 136, Shah et al further disclose updating the status information displayed on the host computer based on at least the time the package was delivered at the second location (Figure 11; Col. 15, lines 4-10; Col. 17, lines 12-27).

As per Claims 125 and 137-138, Shah et al further disclose identifying individuals who modify information stored on the host (Figures 8, 10-11; Col. 11, lines 1-5; Col. 13, lines 20-45).

10. Claims 96-97, 120-121 and 132-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al, U.S. Patent No. 5,636,122 and Jones, U.S. Patent Application Publication No. US 2003/0233190 A1 as applied above and further in view of Smith et al, U.S. Patent No. 6,430,496 B1.

As per Claims 96-97, 120-121 and 132-133, Shah et al further disclose information regarding the dispatching of vehicles such as vehicle ready time, delivery time, service type, vehicle type and other information and further disclose that other forms of data may also be captured depending upon the particular application (Col. 13, lines 30-33; Col. 14, lines 50-55). Shah et al fail to explicitly disclose wherein the information includes whether the vehicle can be driven or whether a key for operating the vehicle is available. Smith et al disclose a fully automated vehicle dispatching system and further teach wherein the system may store information regarding the vehicle such as whether it is available or not (Col. 1, lines 55-65; Col. 11, lines 34-40; Col. 14, lines 20-24) which indicates that the vehicle can be driven. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include information regarding the status of the vehicle such as whether it can be driven or not as suggested by Smith et al. This would enable the dispatchers to only dispatch vehicles which are available and can be driven.

Furthermore, the various types or elements of data that can be stored or maintained by the system such as whether the vehicle must be towed or whether a key for operating the vehicle is available are directed to non-functional descriptive material and are not functionally involved in the steps recited.

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The steps of storing or maintaining various types or forms of data would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to store or maintain by type or form of data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

11. Claims 103-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al, U.S. Patent No. 5,636,122 in view of Jones, U.S. Patent Application Publication No. US 2003/0233190 A1 and Byford, U.S. Patent No. 6,220,509 B1.

As per Claims 103-106 and 112, Shah et al disclose a method for delivering a package from a first location to a second location comprising:

- displaying status information associated with the package delivery on the host computer (Figures 10-11, Col. 15, lines 4-10; Col. 17, lines 12-27);
- locating the package based on the origination data such as the address (Figure 10; Col. 13 line 55-Col. 14 line 15; Col. 18, lines 29-35; Col. 19, lines 17-25 and 32-41);
- moving the package from the first location to the second location (Figure 10; Col. 13 line 55-Col. 14 line 15; Col. 18, lines 29-35; Col. 19, lines 17-25 and 32-41).

Shah et al fail to disclose predetermined vehicle identification data for identifying which vehicle is to be picked up and delivered and verifying the identification of the vehicle at the second location. Jones discloses a dispatch and delivery management system and teaches wherein a user may enter an order for a package to be delivered and wherein the order includes package identification numbers to identify which package is to be picked up and delivered (0095; 0110; 0120). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and

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include package identification numbers in the package delivery order to ensure that the correct package is picked up and inspected/verified at the delivery location by the delivery service. Verifying that the correct package is being delivered is a typical step carried out by delivery personnel in order to ensure the correct package is being delivered to the correct recipient.

Shah et al and Jones disclose the pickup and delivery of packages and Jones discloses using package identification numbers to identify the package, however, Shah et al and Jones fail to explicitly disclose that the identification data is predetermined and that the package being delivered is a vehicle. However, the various types or elements of data that can be used to identify a package or vehicle such as predetermined identification data is directed to non-functional descriptive material and is not functionally involved in the steps recited. Various types or forms of data used for package or vehicle identification would be used the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004). Also see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to use any type or form of data to identify the package or vehicle because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Shah et al also fail to specifically disclose generating a data label based on the predetermined vehicle identification data, applying the label to the vehicle at the first location, scanning the data label at the second location and updating the status information displayed on the host computer based on the scanning step. Byford discloses a parcel trace system and further teach generating a data label based on the package identification data, applying the data label to the package at the first location and scanning the label at the second location (Col. 2, lines 25-46 and 54-65; Col. 3, lines 53-65) and updating the status information displayed on a host computer based on the scanning step (Col. 2, lines 35-60; Col. 3, lines 10-42). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include the ability to generate a data label,

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apply the label to the item being delivered, scan the label upon delivery of the item and update the status of the delivery based on the scanning step as taught by Byford. Byford provides motivation by indicating that this would enable a customer expecting delivery of the package to track the status/location of the package while in transit (Col. 3, lines 38-50; Col. 4, lines 13-25).

As per Claims 107-108, Shah et al and Jones fail to explicitly disclose wherein the moving step includes driving or towing the vehicle from the first location to the second location. Shah et al and Jones teach a method for delivering packages instead of vehicles, however, examiner takes Official Notice that when the package being delivered is a vehicle, it is generally well known that the vehicle must be either driven or towed in some fashion in order to move the vehicle from one location to another.

As per Claim 109, Shah et al further disclose wherein the updating step includes updating the status information with data indicative of the time when the package was delivered to the second location (Figure 11).

As per Claim 110, Shah et al further disclose generating a time stamp for indicating when a transaction is ordered by a customer and data regarding the order is received (Figure 10; Col. 14, lines 50-55; Col. 16, lines 33-36).

As per Claim 111, Shah et al further disclose wherein the terminal includes a terminal for generating and transmitting order confirmation (Col. 13, lines 10-45).

As per Claim 113, Shah et al further disclose wherein the inspecting step includes recording information on the time when the vehicle was delivered at the second location (Figure 11).

### ***Conclusion***

**12. Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual

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claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

13. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Byford discloses a parcel trace system and teach wherein clients enter orders for a package to be picked up and delivered including generating a bar code package identification label.
- Ramsden et al disclose an automated package shipping machine and teach wherein a user enters orders for a package to be picked up and delivered including package identification information
- Nathanson et al disclose a transportation dispatch and delivery tracking system
- Trask discloses a vehicle allocation system
- Paredes discloses an automated vehicle dispatch system
- Bunn discloses an automated vehicle tracking and service provisioning system

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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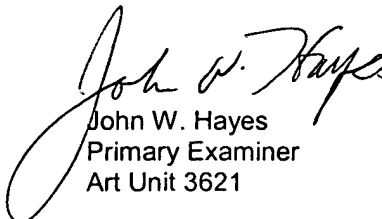
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John W. Hayes  
Primary Examiner  
Art Unit 3621

March 11, 2005